

**UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF OHIO  
EASTERN DIVISION**

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CLERK OF COURT  
NORTHERN DISTRICT OF OHIO  
EASTERN DIVISION

IN RE:	)	CASE NO. 04-56548
	)	
LEO E. KOEBERLE,	)	CHAPTER 13
	)	
DEBTOR(S)	)	JUDGE MARILYN SHEA-STONUM
	)	
	)	<b>ORDER</b>
	)	
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	)	
	)	

On December 6, 2004, Leo Koeberle (the "Debtor"), *pro se*, filed a chapter 13 bankruptcy petition with this Court and initiated the above-captioned bankruptcy case. On that same day, a Notice of Filing Deficiency was issued by the Court indicating that the following documents (which were not included with the petition) were to be filed within 15 days from the date of the notice: Schedules A - J; Summary of Schedules; Legal Description of all Real Property and Land Contracts; Statement of Financial Affairs and Chapter 13 Plan.

A hearing in this case was held on February 3, 2005 to allow the Debtor to appear and show cause why this case should not be dismissed for his failure to file all required documents. The Debtor did appear at the February 3, 2005 hearing, but all required documents had not been filed. Based upon the Debtor's failure to file all required documents, this case was dismissed [docket #13]. The Court retained jurisdiction in this case to address whether or not sanctions should be imposed upon the bankruptcy petition preparer who purportedly assisted the Debtor with the filing of this case.

On February 24, 2005, the Court entered an Order directing Wanda Sanchez-Gordon, the purported bankruptcy petition preparer, to appear on March 1, 2005 and show cause why:

- (1) she failed to file the disclosure of compensation required by 11 U.S.C. § 110(h)(1);
- (2) she should not be required to disgorge whatever fee was paid to her by the debtor;
- (3) she and anyone acting in concert with her should not be enjoined from soliciting business from anyone residing in Summit, Portage and Medina counties who own real property which is slated for sale by foreclosure; and
- (4) she and anyone acting in concert with her should not be enjoined from offering bankruptcy petition preparer services to anyone residing in Summit, Medina and Portage counties (collectively, the "Sanctions")

Artrice Gordon, who identified himself as the owner of Homesavers USA, Inc., appeared at the hearing. According to Mr. Gordon, his wife and business associate Wanda Sanchez-Gordon was receiving medical treatment during the hearing and was unavailable to attend the hearing. In addition, Andrew Vara, a staff attorney with the Office of the United States Trustee participated in the hearing telephonically. The Debtor did not appear at the hearing.

Upon a review of the file in this case the Court notes that the following individual (with the related information) is listed on the chapter 13 petition as the non-attorney petition preparer who assisted the Debtor in preparing the petition: "Wanda Sanchez-Gordon, SS# 032-56-8087, 383 Broadway, #203, Lorain, OH 44052." The petition was signed by "Wanda Sanchez-Gordon" above the line for "Signature of Bankruptcy Petition Preparer."

Also filed with the petition was a "Certification and Signature of Non-Attorney Bankruptcy Petition Preparer" which was also signed by one "Wanda Sanchez-Gordon." That certification sets forth, in part, the following: "I [the undersigned] certify that I am a bankruptcy petition preparer as defined in 11 U.S.C. §110, that I prepared this document for compensation and that I have provided the debtor with a copy of this document." A disclosure of the compensation that the Debtor paid to bankruptcy petition preparer who assisted him was never filed in this case.

During the February 3, 2005 hearing, the Debtor indicated to the Court that he received a postcard through the U.S. Mail indicating that, for a fee, his name could be removed from the roster of property to be sold at sheriff's sale. The Debtor also indicated that he called the telephone number listed on the postcard and spoke to a male. During the hearing on March 1, 2005, Mr. Gordon confirmed that Homesavers USA, Inc. solicited business by sending postcards through the U.S. Mail to individuals whose names appear on the roster of property to sold at sheriff's sale. Mr. Gordon did not dispute that the Debtor received a postcard from Homesavers USA, Inc.

During the February 3, 2005 hearing, the Debtor stated that he was counseled to file a chapter 13 bankruptcy petition by Homesavers USA, Inc and that the Debtor met with someone in the Federal Courthouse who arrived with his prepared but unsigned bankruptcy petition which the Debtor ultimately signed and filed. The Debtor stated that he paid approximately \$460.00 for the bankruptcy services provided to him and that name of the individual who signed his bankruptcy petition as the preparer ("Wanda Sanchez-Gordon") was unfamiliar to him. Mr. Gordon indicated that he had met the Debtor at the Federal Courthouse and that Homesavers USA, Inc. had received \$460.00 from the Debtor.

A "bankruptcy petition preparer" is defined by the Bankruptcy Code as "a person, other than an attorney or an employee of an attorney, who prepares for compensation a document for filing." 11 U.S.C. §110(a)(1). A "document for filing" is defined as "a petition or any other document prepared for filing by a debtor in a United States bankruptcy court or

a United States district court in connection with a case under this title.” 11 U.S.C. §110(a)(2). A bankruptcy petition preparer is prohibited from engaging in the unauthorized practice of law and the services that a bankruptcy petition preparer may offer are limited to “providing forms, providing limited information such as court location and filing fees, typing documents from information provided by debtors, compiling them in proper order and providing duplication services.” 11 U.S.C. §110(k); *In re Alexander*, 284 B.R. 626 (Bankr. N.D. Ohio 2002); *In re Haney*, 284 B.R. 841, 851 (Bankr. N.D. Ohio 2002). *See also In re Bush*, 275 B.R. 69, 84 (Bankr. D. Idaho 2002) (bankruptcy petition preparer can only perform modest services for debtors such as transcribing or typing bankruptcy forms the debtor alone must prepare without assistance).

A bankruptcy petition preparer is required to file, within 10 days after the date of the filing of the petition, a declaration under penalty of perjury disclosing any fee received from or on behalf of a debtor. 11 U.S.C. § 110(h)(1). A bankruptcy petition preparer bears the burden of proving the reasonableness of any fees charged and received. *In re Alexander*, 284 B.R. 626, 634 (Bankr. N.D. Ohio 2002); *In re Bush*, 275 B.R. 69, 85 (Bankr. D. Idaho 2002). Section 110(h)(2) of the Bankruptcy Code provides that the court shall disallow any excessive fees paid to a bankruptcy petition preparer and to order the preparer to turnover such fees to the panel trustee. Any failure by the petition preparer to comply with a turnover order within 30 days will subject the preparer to further fines. 11 U.S.C. § 110(h)(4).

Section 105(a) of the Bankruptcy Code provides that “[t]he court may issue any order . . . that is necessary or appropriate to carry out the provisions of this title.” Local Bankruptcy Rule 2090-2(c) (effective April 15, 1997) provides that “when necessary to control or eliminate disruptive, abusive, or unprofessional practices or conduct, this Court, through its inherent powers, may after notice and hearing sanction any attorney or party.” Pursuant to these provisions and the inherent authority possessed by all federal courts, this Court may regulate the practice of individuals appearing before it to protect the public against unqualified practitioners and to prevent abuse of the bankruptcy process. *See, e.g., Brown v. Smith (In re Poole)*, 222 F.3d 618 (9<sup>th</sup> Cir. 2000); *In re Volpert*, 110 F.3d 494 (7<sup>th</sup> Cir. 1997); *In re Computer Dynamics, Inc.*, 253 B.R. 693 (Dist. E.D. Va. 2000); *In re MPM Enterprises, Inc.*, 231 B.R. 500 (Dist. E.D.N.Y. 1999). *See also In re DerryBerry, II*, 72 B.R. 874, 881 (Bankr. N.D. Ohio 1987) (and cases cited therein). To this end, this Court is imbued with broad discretion in fashioning an appropriate sanction. *In re Computer Dynamics, Inc.*, 253 B.R. 693, 698 (Dist. E.D. Va. 2000). *See also* 11 U.S.C. §110(j).


Based upon the foregoing, it is not clear to the Court what bankruptcy petition preparer services Wanda Sanchez-Gordon could have provided to the Debtor relative to this case in exchange for any fee. However, the Debtor failed to appear, as directed, at the March 1, 2005 hearing. Therefore, the Court will not order Homesavers USA, Inc. or Ms. Sanchez-Gordon to disgorge the money received from the Debtor.

However, it is clear to the Court that by providing services to debtors who file

bankruptcy in this Court location, Homesavers USA, Inc. and its employees are engaging in a disruptive, abusive and/or unprofessional practice that, in order to protect the public against unqualified practitioners and to prevent abuse of the bankruptcy process, should be curtailed.

In order to curtail these practices, the Court hereby enjoins Wanda Sanchez Gordon, Artrice Gordon and Homesavers USA, Inc. and anyone acting in concert with them from soliciting business, through the U.S. Mail, from anyone residing in Summit, Portage and Medina counties who owns real property which is the subject of a foreclosure action and/or is slated for sheriff's sale.

**IT IS SO ORDERED.**

  
MARILYN SHEA-STONUM  
Bankruptcy Judge

